



# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,786	10/17/2003	Puranam Usha Sarma	41144F0071	1769
441 7590 04/30/2007 SMITH, GAMBRELL & RUSSELL 1850 M STREET, N.W., SUITE 800 WASHINGTON, DC 20036			EXAMINER BERTAGNA, ANGELA MARIE	
			ART UNIT 1637	PAPER NUMBER
			MAIL DATE 04/30/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/686,786

Applicant(s)

SARMA ET AL.

Examiner

Angela Bertagna

Art Unit

1637

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☒ Applicant's reply has overcome the following rejection(s): None.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☒ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

JEFFREY FREDMAN  
PRIMARY EXAMINER  
*Jeffrey*

Continuation of 11. does NOT place the application in condition for allowance because: The affidavits filed April 12, 2007 and re-submitted April 25, 2007 do not overcome the outstanding rejection under 35 U.S.C. 102(a). The affidavits reference a publication authored by Madan et al. (Clin Chem Lab Med (2002) 40(10): 1002-1008), but the outstanding rejection under 102(a) cited Saxena et al. (Association of polymorphisms in the collagen region of SP-A2 with increased levels of total IgE antibodies and eosinophilia in patients with allergic bronchopulmonary aspergillosis. Journal of Allergy and Clinical Immunology (May 2003) 111(5): 1001-1007). In order to overcome the rejection under 102(a), the affidavit must be directed to the cited journal article (Saxena et al., 2003). As noted in MPEP 715.01(c) and 716.10, the rejection may be overcome if: (a) one of the inventors named on the instant application (Madan, Sarma, Saxena) state that the additional authors listed on the Saxena article (Shah, Muralidhar) did not contribute to the invention or (b) the additional authors (Shah, Muralidhar) state that they are not inventors of the material disclosed in the instant application.

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FAX NO.

P. 06

P. 02

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Confirmation No.: 1769

Applicants : P. U. Sarma, et al.  
Serial No. : 10/686,786  
Filed : October 17, 2003  
Examiner : Angela Marie Bartagna  
Group Art Unit : 1637  
For : A METHOD OF DETECTION OF SP-A2 GENE VARIANTS  
USEFUL FOR PREDICTION OF PREDISPOSITION TO  
ASPERGILLOSIS

SECOND AFFIDAVIT/DECLARATION

We, Kolluri J.R. Murthy and Kambadur Muralidhar, declare and state as follows:

First, we are familiar with the publication, "Association of Polymorphisms in the Collagen Region of Human SP-A1 and SP-A2 Genes with Pulmonary Tuberculosis in Indian Population<sup>1m</sup>, Clin Chem Lab Med 2002; 40(10): 1002-1008;

Second, we are listed as contributing to this publication;

Third, we are associated with the Assignee of the above-identified application,

Fourth, that this publication originated with or were obtained from Shweta Saxena, Taruna Madan, and/or Puranam Usha Sarma;

Fifth, that we are familiar with United States Patent Application No(s). 10/102,731, filed March 22, 2002 and 10/686,786, filed October 17, 2003;

Sixth, that we are not inventors of the above identified subject matter;

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NFI 6/1

WHEREFORE, I declare that all statements made herein of my own knowledge are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Date: \_\_\_\_\_

Kolfuri J.R. Murthy

Date: March 14<sup>th</sup>, 2007  
Kambadur Muralidhar

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APR 25 2007

FAX NO.

P. 04

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Serial No. : 10/686,786  
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USEFUL FOR PREDICTION OF PREDISPOSITION TO  
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OK to Enter  
AB  
4/27/07

WHEREFORE, I declare that all statements made herein of my own knowledge are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Date: 13 April 2007

  
Kolluri J.R. Murthy

Date: \_\_\_\_\_

\_\_\_\_\_ Kambadur Muralidhar

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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4/27/07  
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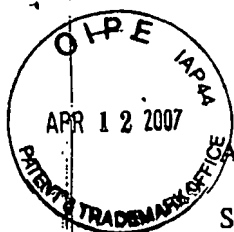
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Date: 13. April. 2007

  
Kolluri J.R. Murthy

Date: \_\_\_\_\_

\_\_\_\_\_  
Kambadur Muralidhar



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Sixth, that we are not inventors of the above identified subject matter;


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2/F16/1

WHEREFORE, I declare that all statements made herein of my own knowledge are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Date: \_\_\_\_\_

Kolluri J.R. Murthy

Date: March 14<sup>th</sup>, 2007  
Kambadur Muralidhar

SGRDC274763.1